

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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In the Matter of )

Consolidated Communications )  
Petition for Conversion )  
And Limited Waiver )

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WC Docket No. 07-291

**CONSOLIDATED'S REPLY COMMENTS**

Consolidated Communications Holdings, Inc., on behalf of its incumbent local exchange carrier subsidiaries ("Consolidated"), replies to the initial comments regarding its Petition for Conversion to Price Cap Regulation and for Limited Waiver Relief ("Petition").<sup>1</sup> In the petition, Consolidated requests authority to convert its rate-of-return ("ROR") cost study areas to price cap regulation no later than July 1, 2008, and, to the extent necessary, limited waivers of the applicable universal service high-cost support mechanisms to enable Consolidated's successful conversion.

Supporting comments were filed by the Independent Telephone & Telecommunications Alliance ("ITTA") and the United States Telecom Association ("USTA"). ITTA argues that increased flexibility is needed for carriers to meet diverse market conditions. Therefore, ITTA supports elimination of the "all-or-nothing" rule, and giving carriers the option of price-cap election on a study-area basis. ITTA also supports Consolidated's implicit request to freeze

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<sup>1</sup> FCC Public Notice, *Comment Sought on Consolidated Communications Holdings, Inc., Petition for Conversion to Price Cap Regulation and for Limited Waiver of Pricing and Universal Service Rules*, DA 08-18, WC Docket No. 07-291 (Jan. 3, 2008).

separations factors in any of its rate-of-return areas where it previously had not elected to freeze separations factors, and suggests the Commission allow other rate-of-return companies that have not previously done so the opportunity to freeze separations factors. Consolidated agrees with ITTA's comments, and urges the Commission to grant it the flexibility it needs to compete in today's marketplace.

Consolidated also agrees with USTA's comments that Consolidated and its customers should not be penalized by the absence of a near term replacement intercarrier compensation regime. Consolidated appreciates USTA's characterization of the Petition as a prudent and thoughtful methodology of adopting the goals of the *CALLS Order*<sup>2</sup> without upsetting the mechanisms which contribute to its nature as a closed system. USTA also supports the grant of waivers relating to the continuation of universal service.

AT&T Inc. ("AT&T") also filed comments that generally supported the Petition, but AT&T also sought conditions to prevent the artificial stimulation of traffic; *i.e.*, "traffic pumping." Consolidated does not engage in traffic pumping now, as AT&T acknowledged,<sup>3</sup> nor does it intend to engage in such conduct in the future. Therefore, although it believes the conditions proposed by AT&T are unnecessary, Consolidated is not opposed to a requirement that it submit a certification that it is not currently artificially stimulating traffic, and that it will not do so while regulated as a price cap carrier. In addition, Consolidated is not opposed to a

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<sup>2</sup> *Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers*, Sixth Report and Order, 15 FCC Rcd 12962 (2000) ("*CALLS Order*"), *aff'd in part, rev'd in part and remanded in part*, *Texas Office of Public Util. Counsel v. FCC*, 265 F.3d 313 (5th Cir. 2001), *on remand*, 18 FCC Rcd 14976 (2003).

<sup>3</sup> AT&T at 4.

condition that it include in its first price cap tariff filing a “trigger” provision consistent with the safe harbor adopted by the Pricing Policy Division in the 2007 access tariff investigation, committing it to refile its rates at the target ATS level within 60 days of the end of any month in which its interstate local switching demand increases to a level that is more than 100 percent over the interstate local switching demand in the same month in the previous year.<sup>4</sup> Consolidated understands that this proposed condition would apply only to study areas in which rates are above the target level (which Consolidated anticipates will be only its Illinois study area), and that the “trigger” calculation would be based upon interstate access traffic volumes in those study areas only.<sup>5</sup>

Finally, Cellular One of East Central Illinois (“Cellular One”) wrongly characterizes the Petition as an attempt to pick and choose the most economically beneficial rules from both the price cap and the rate-of-return regimes. In particular, Cellular One appears to misunderstand what Consolidated is requesting when it argues that Consolidated is seeking continued high cost support and regulatory protections more suited to rate-of-return carriers, while wanting the flexibility of price cap pricing. Consolidated is merely seeking to operate on an equal footing with those carriers that were granted price cap relief under the terms of the *CALLS Order*.<sup>6</sup>

In the *CALLS Order*, an explicit interstate universal service support mechanism (the \$650 million IAS fund) was established to replace the annual implicit support previously collected

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<sup>4</sup> *Investigation of Certain 2007 Annual Access Tariffs*, WC Docket No. 07-184, Designation Order, DA 07-3738 at para. 26 & n.49 (rel. Aug. 24, 2007).

<sup>5</sup> Consolidated also notes AT&T’s statement that, “should unforeseen events result in demand growth above that liberal benchmark that is not due to traffic pumping, Consolidated remains free to request a waiver from the Commission to maintain its then-current rates in force.” AT&T at 4.

<sup>6</sup> *CALLS Order*, 15 FCC Rcd 12962.

through interstate access charges that were phased out as part of the CALLS' common line restructuring.<sup>7</sup> However, as noted in the Petition, if Consolidated converts to price cap pricing without a waiver of the current rules, it would no longer will have access to *either* the IAS fund or the ICLS fund, which is the equivalent fund for rate-of-return carriers. This is because the total size of the IAS fund was capped in the *CALLS Order*, and the rules for computing IAS support are limited by their terms to companies that were price cap carriers as of June 30, 2000.<sup>8</sup> Absent a waiver, therefore, Consolidated would have less ability to recover its common line costs than price cap LECs that converted before the *CALLS Order* or than rate-of-return LECs that continue to receive ICLS funding.

In an effort to achieve a fair and balanced approach to the situation, Consolidated has proposed a solution that gives it the same incentives as other price cap carriers, which are eligible for IAS, to become more efficient while investing in its networks. Under Consolidated's proposal, Consolidated would receive "*a level of support no higher than the IAS funding that Consolidated would receive per line*" if it were eligible for IAS support under the *CALLS Order*.<sup>9</sup> Cellular One's contention that a waiver would enable Consolidated to maintain "high levels of high cost universal service support developed in a monopolistic context" is completely wrong.<sup>10</sup> Consolidated would receive no more support under its proposed waiver than it would have received if it had converted to price-cap regulation before June 30, 2000. In fact, the proposed

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<sup>7</sup> *Id.* at 13043.

<sup>8</sup> *See* 47 CFR § 54.801(a).

<sup>9</sup> Petition at 20, emphasis in original.

<sup>10</sup> Cellular One at 2

waiver will not burden the IAS fund, will reduce the level of support to Consolidated, and will reduce the overall size of the USF. It is a win-win situation. Cellular One's wild claims of "unfair competition" and using "ROR levels of cost support to undercut its competitors" indicate a complete misunderstanding of the Petition. Simply put, Consolidated's proposal will not allow it to receive a higher level of universal service support than is available to similarly-situated price cap carriers under existing rules.

Oddly, even while complaining (mistakenly) that Consolidated would receive too much USF support, Cellular One also complains that Consolidated will receive *too little* high-cost support if its waiver is granted. The reason is that, under the current identical support rule, a reduction in Consolidated's support would result in a reduction in the support per line received by any competitive eligible telecommunications carrier serving any of Consolidated's converted study areas.<sup>11</sup> However, although Cellular One claims it "is one of these rural competitors that would receive significantly less high cost support ... if the petition is granted,"<sup>12</sup> the latest reports filed with the Commission by the Universal Service Administrative Company indicate that Cellular One is *not* an Eligible Telecommunications Carrier, and in fact there are *no* CETCs certificated for any of Consolidated's cost-company study areas. This objection therefore is completely groundless.

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<sup>11</sup> Cellular One at 4 n.10. Of course, Cellular One's objection would become moot if the Commission adopts its recent proposal to abolish the identical support rule for competitive ETCs. See *High-Cost Universal Service Support (Identical Support Rule)*, Federal-State Joint Board on Universal Service, Notice of Proposed Rulemaking, WC Docket No. 05-337, FCC 08-4 (rel. Jan. 29, 2008).

<sup>12</sup> Cellular One at 4 n.10.

As demonstrated in the Petition, establishing a reasonable pathway for this conversion is in the public interest as it will, among other things: increase consumer welfare by enhancing competition; reduce the overall size of the universal service fund; hold steady or reduce access rates; and provide well established and tested regulatory incentives to encourage Consolidated to maintain and enhance efficient operations. Therefore, Consolidated urges the FCC to grant the Petition to achieve these substantial public benefits.

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Dated: February 19, 2008

## CERTIFICATE OF SERVICE

I, Troy F. Tanner, herby certify that on February 19, 2008, I have caused copies of the foregoing Consolidated's Reply Comments to be served via regular U.S. Mail on the following:

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